

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 5, 2007

The Council of the City of San José convened in regular session at 9:00 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Council District 4.

Upon motion unanimously adopted, Council recessed at 9:10 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel with respect to anticipated litigation pursuant to: (1) Government Code Section 54956.9, subsection (b) with significant exposure in one (1) matter; (2) Government Code Section 54956.9, subsection (c) initiating litigation in one (1) matter. (B) Public employee performance evaluation pursuant to Government Code Section 54957, Title: City Auditor. (C) To confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Engineers & Architects; (2) Association of Maintenance Supervisory Personnel.

By unanimous consent, Council recessed from the Closed Session at 10:30 a.m. and reconvened at 1:32 p.m. in the Council Chambers

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Council District 4.

INVOCATION

Father John Asimacoupoulos of St. Nicholas Church presented the invocation. (District 6)

PLEDGE OF ALLEGIANCE

Mayor Reed and the students from Renaissance Academy led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 11.6 continued to June 19, 2007. (10-0.)

CEREMONIAL ITEMS

1.2 **Presentation of a commendation to Renaissance Academy for being named a California Distinguished School. (Campos)** **(Rules Committee referral 5/23/07)**

Action: Mayor Reed and Council Member Campos recognized and commended the Renaissance Academy for achieving the status of a California Distinguished School.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0.)

2.2 (a) **ORD. NO. 28044 – Containing a description of the Redevelopment Agency of the City of San José's Program to acquire real property by eminent domain in its adopted redevelopment project areas.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28044 executed on May 22, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28044](#) was adopted. (10-0.)

(b) **ORD. NO. 28045 – Rezoning certain real property situated at the southeast corner of Piercy Road and Tennant Avenue (715 Piercy Road) to A(PD) Planned Development Zoning District. PDC06-102**

Documents Filed: Proof of Publication of the title of Ordinance No. 28045 executed on May 22, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28045](#) was adopted. (10-0.)

- 2.2 (c) **ORD. NO. 28046** – Rezoning certain real property, situated at 90 Archer Street at the southwest corner of Archer Street and Kerley Drive, to A(PD) Planned Development Zoning District. PDC06-085

Documents Filed: Proof of Publication of the title of Ordinance No. 28046 executed on May 22, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28046](#) was adopted. (10-0.)

- (d) **ORD. NO. 28047** – Rezoning certain real property situated on the north side of Willow Glen Way, approximately 450 feet west of Padres Creek Drive (701 Willow Glen Way) to A(PD) Planned Development Zoning District. PDC06-118

Documents Filed: Proof of Publication of the title of Ordinance No. 28047 executed on May 22, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28047](#) was adopted. (10-0.)

- (e) **ORD. NO. 28048** – Rezoning certain real property, generally bounded by Lincoln Avenue and Northrup Street to the east, by Interstate 280 to the south, by Race Street to the west, and by industrial buildings and the VTA Light Rail Tracks to the north, to A(PD) Planned Development Zoning District. PDC06-024

Documents Filed: Proof of Publication of the title of Ordinance No. 28048 executed on May 22, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28048](#) was adopted. (10-0.)

- (f) **ORD. NO. 28049** – Rezoning certain real property generally bounded by Lincoln Avenue and Northrup Street to the east, by industrial buildings on the south side of Auzerais Avenue to the north, by Race Street to the west, and by the VTA Light Rail Tracks to the south, to A(PD) Planned Development Zoning District. PDC06-025

Documents Filed: Proof of Publication of the title of Ordinance No. 28049 executed on May 22, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28049](#) was adopted. (10-0.)

- (g) **ORD. NO. 28050** – Rezoning certain real property situated on the east side of Taft Drive, approximately 200 feet northerly of Blossom Valley Drive (5410 Taft Drive) to A(PD) Planned Development Zoning District. PDC06-027

2.2 (g) (Cont'd.)

Documents Filed: Proof of Publication of the title of Ordinance No. 28050 executed on May 22, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28050](#) was adopted. (10-0.)

- (h) **ORD. NO. 28051 – Rezoning certain real property situated on the east side of Senter Road, approximately 200 feet southerly of Burke Street and 550 feet northerly of Quinn Avenue (2222 Senter Road) to A(PD) Planned Development Zoning District. PDC06-119**

Documents Filed: Proof of Publication of the title of Ordinance No. 28051 executed on May 22, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28051](#) was adopted. (10-0.)

- (i) **ORD. NO. 28052 – Adopting salaries, pursuant to City Charter Section 407, and other compensation for the Mayor and Council Members recommended by the Council Salary Setting Commission.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28052 executed on May 25, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28052](#) was adopted. (10-0.)

- (j) **ORD. NO. 28054 – Rezoning certain real property situated on a portion of a block bounded by The Alameda, Emory Street, Naglee Avenue and Morse Street. On the east side of Morse Street, approximately 150 feet northerly of Naglee Avenue (744 Morse Street) to A(PD) Planned Development Zoning District. PDC06-100**

Documents Filed: Proof of Publication of the title of Ordinance No. 28054 executed on May 25, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28054](#) adopted. (10-0.)

- (k) **ORD. NO. 28055 – Amending Ordinance No. 27606 and repealing Ordinance No. 27932 to extend the entire period of the limited pilot program to allow certain second residential units, from January 1, 2006 to October 31, 2007, which program automatically terminates if 100 permits are issued; and amending Ordinance No. 27675 to extend until October 31, 2007 the temporary suspension of Chapter 14.25 of Title 14 of the San José Municipal Code pertaining to park impact requirements otherwise applicable to second units, without modifying other parts of the second unit pilot program.**

2.2 (k) (Cont'd.)

Documents Filed: Proof of Publication of the title of Ordinance No. 28055 executed on May 25, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28055](#) adopted. (10-0.)

**2.3 Approval of an amendment to the agreement between the City of San José and Brown & Keener Bressi to implement a portion of the Public Art Master Plan by developing Public Art Focus Plans for Downtown and increase the contract amount by \$47,500, for a total amount not to exceed \$137,500. CEQA: Not a Project. (Economic Development)
(Deferred from 5/15/07 – Item 2.7)**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated April 25, 2007, recommending approval of an amendment to the Public Art Master Plan agreement.

Action: The agreement with Brown & Keener Bressi to implement a portion of the Public Art Master Plan by developing Public Art Focus Plans for Downtown and increase the contract amount by \$47,500, for a total amount not to exceed \$137,500 was approved. (10-0.)

**2.4 Adoption of a resolution authorizing the Director of Finance to execute the second amendment to the agreement with FedEx Kinko's Office and Print Services, Inc. extending the term of the agreement from May 30, 2007 to August 31, 2007 and increasing the cost for black and white and color impressions and setting the cost for other services at a 5% discount of published rates. CEQA: Not a Project. (Finance)
(Deferred from 5/22/07 – Item 2.6)**

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated May 4, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73777](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute the Second Amendment to the Agreement with FedEx Kinko's Office and Print Services, Inc.", was adopted. (10-0.)

**2.5 Adoption of a resolution ordering the reorganization of the territory designated as Winchester No. 40 which involves the annexation to the City of San José of 0.42 acres more or less of land located at the west side of Spar Avenue, approximately 130 feet northerly of Olin Avenue, and generally bounded by the City of San José Annexations Winchester No. 11, 33 and 38, and the detachment of the same from the appropriate special districts including Central Fire Protection, West Valley Sanitation, County Lighting Services and Area No. 01 (Library) County Service. CEQA: Resolution No. 65459, File No. C06-144. Council District 1. (Planning, Building and Code Enforcement)
(Deferred from 5/22/07 – Item 2.10)**

2.5 (Cont'd.)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 2, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73778](#), entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Winchester No. 40, Subject to Liability for General Indebtedness of the City", was adopted. (10-0.)

**2.6 Request for excused absences for Council Member Chirco from the Capital Budget Study Session and Rules Committee Meetings on May 16, 2007 due to Illness. (Chirco)
(Rules Committee referral 5/23/07)**

Documents Filed: Memorandum from Council Member Chirco, dated May 16, 2007, requesting an excused absence due to illness.

Action: The request for excused absences for Council Member Chirco due to illness was approved. (10-0.)

**2.7 Acceptance of the Office of the City Auditor's Sales Tax Audit Results for the Quarter Ended December 31, 2006. (City Auditor)
(Rules Committee referral 5/23/07)**

Documents Filed: The Sales Tax Audit Results for the Quarter Ended December 31, 2006 from the Office of the City Auditor.

Action: The report on the Sales Tax Audit Results for the Quarter Ended December 31, 2006 was accepted. (10-0.)

**2.8 Request for an excused absence for Council Member Constant from the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on May 17, 2007 due to illness. (Constant)
(Rules Committee referral 5/23/07)**

Documents Filed: Memorandum from Council Member Constant, dated May 21, 2007, requesting an excused absence due to illness.

Action: The request for an excused absence for Council Member Constant due to illness was approved. (10-0.)

- 2.9
- (a) Preliminary approval of the report as filed by the Japantown Business Improvement District Advisory Board or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2007-2008, and setting June 19, 2007 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 3. SNI: 13th Street. (Economic Development)
 - (b) Preliminary approval of the report as filed by the Willow Glen Business Improvement District Advisory Board, or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2007-2008, and setting June 19, 2007 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 6. (Economic Development)
 - (c) Preliminary approval of the report as filed by the Hotel Business Improvement District Advisory Board or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2007-2008, and setting June 19, 2007 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 3. SNI: 13th Street. (Economic Development)
 - (d) Preliminary approval of the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council, and adoption of a resolution of intention to levy the annual assessment for 2007-2008, and setting June 19, 2007 at 1:30 p.m. meeting as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, PP03-05-165. Council District 3. SNI: St James Square, University, Josefa/Auzerais, Burbank/DelMonte. (Economic Development)

Documents Filed: Memoranda from Director of Economic Development Paul Krutko, all four dated May 14, 2007, recommending preliminary approval of the 2007-2008 Budget Report and adoption of resolutions.

Action: [Resolution No. 73779](#), entitled “A Resolution of the Council of the City of San José Declaring Its Intent to Levy Assessments for Fiscal Year 2007-2008 in the Japantown Business Improvement District Pursuant to the Park and Business Improvement Area Law of 1989; and Setting the Date and Time for the Public Hearing”; [Resolution No. 73780](#), entitled “A Resolution of the Council of the City of San José Declaring Its Intent to Levy Assessments for Fiscal Year 2007-2008 in the Willow Glen Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting the Date and Time for the Public Hearing”; [Resolution No. 73781](#), entitled “A Resolution of the Council of the City of San José Declaring Its Intent to Levy Assessments for Fiscal Year 2007-2008 in the Hotel Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting the Date and Time for the Public Hearing”, and [Resolution No. 73782](#), entitled “A Resolution of the Council of the City of San José Declaring Its Intent to Levy Assessments for Fiscal Year 2007-2008 in the Downtown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting the Date and Time for the Public Hearing”, were adopted. (10-0.)

2.10 Adoption of a resolution setting a public hearing on June 26, 2007 at 1:30 p.m. for the approval of the report of the Director of Finance on the cost of sidewalk repairs. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated May 14, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73783](#), entitled “A Resolution of the Council of the City of San José Setting a Public Hearing for the Approval of a Report on the Cost of Unpaid Sidewalk Repairs for June 26, 2007”, was adopted. (10-0.)

2.11 Adoption of a resolution initiating proceedings and setting June 19, 2007 at 1:30 p.m. for Council consideration on the reorganization of the territory designated as Monterey Park No. 109 which involves the annexation to the City of San José of 4.37 gross acres of land located at the Northwesterly corner of Curtner Avenue and Stone Avenue, and the detachment of the same from the appropriate special districts including County Lighting Services, Central Fire Protection, Area No. 01 (Library Services) County Service, and County Sanitation Districts 2-3. CEQA: Resolution No. 65459. Council District 7. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from the Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 14, 2007, recommending adoption of a resolution.

2.11 (Cont'd.)

Action: [Resolution No. 73784](#) entitled, “A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Monterey Park No. 109 Described Herein and Setting the Date and Place for Consideration of Such Reorganization Proposal”, was adopted. (10-0.)

2.12 **Adoption of resolutions approving, confirming and adopting the Annual Budget Reports for Fiscal Year 2007-2008 for the City of San José Maintenance Districts 1, 2, 5, 8, 9, 11, 13, 15, 18, 19, 20, 21 and 22 and levying the assessments therein. CEQA: Not a Project. Council Districts 2, 3, 4 and 8. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 14, 2007, recommending adoption of resolutions.

Action: [Resolution No. 73785](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 1 (Los Paseos) for Fiscal Year 2007-2008 and Levying Assessments”; [Resolution No. 73786](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 2 (Trade Zone Boulevard – Lundy Avenue) for Fiscal Year 2007-2008 and Levying Assessments”; [Resolution No. 73787](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 5 (Orchard Parkway – Plumeria Drive) for Fiscal Year 2007-2008 and Levying Assessments”; [Resolution No. 73788](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 8 (Zanker - Montague) for Fiscal Year 2007-2008 and Levying Assessments”; [Resolution No. 73789](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 9 (Santa Teresa – Great Oaks) for Fiscal Year 2007-2008 and Levying Assessments”; [Resolution No. 73790](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 11 (Brokaw Road from Junction Avenue to Old Oakland Road) for Fiscal Year 2007-2008 and Levying Assessments”; [Resolution No. 73791](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 13 (Karin – O’Nel) for Fiscal Year 2007-2008 and Levying Assessments”; [Resolution No. 73792](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 15 (Silver Creek Valley) for Fiscal Year 2007-2008 and Levying Assessments”; [Resolution No. 73793](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 18 (The Meadowlands) for Fiscal Year 2007-2008 and Levying Assessments”; [Resolution No. 73794](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 19 (River Oaks Area Landscaping) for Fiscal Year 2007-2008 and Levying Assessments”; [Resolution No. 73795](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 20 (Renaissance – North First Landscaping) for Fiscal Year 2007-2008 and Levying Assessments”; [Resolution No. 73796](#), entitled: “A Resolution of the Council of the City

2.12 (Cont'd.)

of San José Approving the Annual Budget Report for Maintenance District 21 (Gateway Place – Airport Parkway) for Fiscal Year 2007-2008 and Levying Assessments”; [Resolution No. 73797](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 22 (Hellyer Avenue – Silver Creek Valley Road) for Fiscal Year 2007-2008 and Levying Assessments”, were adopted. (10-0.)

- 2.13 (a) **Report on bids and award of contract for the Yerba Buena Road/San Felipe Corner Park Improvement Project to the low bidder, Golden Bay Construction, Inc., for the base bid of \$195,268 and approval of a contingency in the amount of \$10,000.**
- (b) **Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 8 (Fund 386):**
- (1) **Increase the Yerba Buena Road/San Felipe Corner Park Improvement appropriation to the Parks, Recreation and Neighborhood Services Department by \$65,000; and**
 - (2) **Decrease the Ending Fund Balance by \$65,000.**
- CEQA: Exempt, File No. PP06-068. Council District 8. (Public Works/Parks, Recreation and Neighborhood Services/City Manager’s Office)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso, and Budget Director Larry Lisenbee, dated May 14, 2007, recommending award of contract and adoption of Appropriation Ordinance Amendments.

Action: The award of contract for the Yerba Buena Road/San Felipe Corner Park Improvement Project to the low bidder, Golden Bay Construction, Inc., with related contingency, was approved; and [Ordinance No. 28056](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 8 for the Yerba Buena Road/San Felipe Corner Park Improvement Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (10-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 **Report of the Rules and Open Government Committee – May 2, 2007** **Mayor Reed, Chair**

Document Filed: The Rules and Open Government Committee Report dated May 2, 2007.

3.1 Report of the Rules and Open Government Committee – May 2, 2007 (Cont'd.) Mayor Reed, Chair

(a) City Council

(1) Review New Add Items to May 8, 2007 Agenda

There were none.

(2) Review May 15, 2007 Draft Agenda

The Committee approved the May 8, 2007 Council Agenda with six additions.

(b) Redevelopment Agency items reported out at Redevelopment Agency meeting

(c) Legislative Update

(1) State

(2) Federal

There were none.

(d) Meeting Schedules - There were none.

(e) The Public Record

The Committee directed the City Manager's Office to refer the correspondence from Senior Citizens Commission Chair Don Blankenship dated April 2, 2007 regarding bus service to seniors to the Valley Transportation Authority. The Committee added the request by BAREC to consider preserving the land on Winchester across from Valley Fair to the May 9, 2007 Rules and Open Government Committee agenda for further discussion.

(f) Appointments to Boards, Commissions and Committees

The Committee directed the City Clerk to contact applicants interviewed on February 13, 2007 for the Planning Commission but not appointed to determine interest in re-interviewing with the City Council to fill a vacancy due to the resignation of Commissioner Bob Dhillon. The Committee referred this item back to Rules and Open Government Committee on May 9, 2007.

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Council Expenditures and Reimbursements. Attachment: Memorandum from City Attorney Richard Doyle and City Clerk Lee Price, dated April 20, 2007, transmitting the Council Expenditure and Reimbursement Policy.

The Committee continued this item to May 9, 2007 for further discussion.

3.1 Report of the Rules and Open Government Committee – May 2, 2007 (Cont'd.) Mayor Reed, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
 - (2) Mexican Heritage Corporation Audit Discussion
 - (a) Mexican Heritage Corporation – Supplemental Information. Attachment: Memorandum from City Auditor Gerald Silva, dated April 19, 2007, providing additional information.
 - (b) Response to Mexican Heritage Corporation Audit Recommendations. Attachment: Memorandum from Chief Deputy City Manager Kay Winer, dated April 19, 2007, recommending acceptance of the work plan and forward to Council for approval.

The Committee approved the recommendation noted in the City Auditor's Report. The Committee accepted Staff's workplan and forwarded those recommendations to City Council for approval. Heard by Council on May 22, 2007.

- (h) Review of Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee

There were none.

- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (a) Acceptance of the proposed curriculum for a Council Assistant Certification Program per Reed Reform #25, as amended.

The Committee accepted the proposed curriculum and this item will be placed on the May 22, 2007 City Council Agenda. Heard by Council on May 22, 2007.

- (2) Sunshine Reform Task Force
- (3) Significant Public Records Act Requests
- (4) Council Policy Manual Update

There were none.

- (j) Open Forum - There were none.

3.1 Report of the Rules and Open Government Committee – May 2, 2007 (Cont'd.)
Mayor Reed, Chair

(k) Adjournment - The meeting was adjourned at 4:06 p.m.
(Deferred from 5/22/07 – Item 3.1)

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle the Rules and Open Government Committee Report and the actions of May 2, 2007 were accepted. (10-0.)

3.2 Report of the Rules and Open Government Committee – May 9, 2007
Mayor Reed, Chair

Document Filed: The Rules and Open Government Committee Report dated May 9, 2007.

(a) City Council

(1) Review May 15, 2007 Final Agenda

The Committee approved the May 15, 2007 Council Agenda with three additions.

(2) Review May 22, 2007 Draft Agenda

The Committee approved the May 22, 2007 Council Agenda with eight additions.

(b) Redevelopment Agency items reported out at Redevelopment Agency meeting

(c) Legislative Update

(1) State

(a) AB 239 (DeSaulnier) – Counties' Right to Levy Increased Recording Fees to Fund Affordable Housing Development. Attachment: Memorandum from Director of Housing Leslye Krutko, dated May 2, 2007, recommending Council support for AB239.

The Committee agreed to defer a decision on AB 239 for one week and return to the Rules and Open Government Committee on May 16, 2007.

(b) AB 763 (Saldana) – Consistent and More Rigorous Notification Standards for Landlords Wishing to Convert Rental Units into Condominiums.

3.2 Report of the Rules and Open Government Committee – May 9, 2007

Mayor Reed, Chair

(c) Legislative Update (Cont'd.)

(1) State

- (c) AB 927 (Saldana) – Required Senior Rental Housing in the Multifamily Housing Program.

The Committee approved support positions for AB 763 (Saldana) and AB 927 (Saldana) and directed Staff to send the recommendations to Council on May 15, 2007.

(d) Photo Radar for Speed Enforcement

The Committee accepted the report.

- (2) Federal - There were none.

(d) Meeting Schedules

- (1) Adopt revised 2007-2008 Budget Study Session Schedule.

The Committee approved the 2007-2008 Budget Study Session Schedule.

(e) The Public Record

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

- (1) Planning commission interviews.

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Council Expenditures and Reimbursements.

The Committee directed Staff to report back with an overview of a schedule for discussion of the draft Council Expenditure and Reimbursement Policy. The Committee requested the schedule enable the Committee to accomplish the following objectives: (1) Discuss each policy element in detail; (2) Discuss the overall policy during a one-hour time certain session; and (3) Present a comprehensive draft policy for City Council consideration prior to June 30, 2007.

- (2) Committee discussion on Correspondence from Save Bay Area Research Extension Center (BAREC) regarding the 17 acre BAREC property on Winchester across from Valley Fair.

The Committee directed Staff to prepare an information memorandum on this property and related issues.

3.2 Report of the Rules and Open Government Committee – May 9, 2007 (Cont'd.) Mayor Reed, Chair

- (h) Review of Council Committee Agendas
 - (1) Community and Economic Development Committee

The Committee approved the recommended addition to the CEDC agenda on May 21, 2007.

- (i) Open Government Initiatives
 - (4) Council Policy Manual Update
 - (a) Approval to validate selected policies contained in the City Council Policy Manual.

The Committee approved the validation of the selected policies contained in the City Council Policy Manual and forwarded the policies to the City Council as a cross-reference.

- (j) Open Forum - There were none.
- (k) Adjournment - The meeting was adjourned at 3:42 p.m.

Action: Upon motion by Council Member Pyle, seconded by Council Member Cortese the Rules and Open Government Committee Report and the actions of May 9, 2007 were accepted. (10-0.)

3.3 Report of the Rules and Open Government Committee – May 16, 2007 Mayor Reed, Chair

Document Filed: The Rules and Open Government Committee Report dated May 16, 2007.

- (a) City Council
 - (1) Review May 22, 2007 Final Agenda

The Committee approved the May 22, 2007 City Council Agenda with six additions.

- (2) Review May 29, 2007 Draft Agenda

None; Meeting was canceled.

- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting

3.3 Report of the Rules and Open Government Committee – May 16, 2007 (Cont'd.) Mayor Reed, Chair

(c) Legislative Update

(1) State

- (a) AB 239 (DeSaulnier) – Counties’ Right to Levy Increased Recording Fees to Fund Affordable Housing Development. Attachments: (1) Memorandum from Director of Housing Leslye Krutko, dated May 2, 2007, recommending Council support for AB239. (2) Supplemental memorandum from Director of Housing Leslye Krutko, dated May 14, 2007, summarizing questions raised by the Committee members.

The Committee agreed to take a “watch” position on this bill and send it to Council for approval on May 22, 2007.

- (b) Adopt Support Position for House Resolution 243 (Smith) – Human Rights Reform in Vietnam. Attachment: Memorandum from Vice Mayor Cortese, dated May 9, 2007, recommending a position of support for House Resolution 243.

The Committee authorized the Mayor to sign a letter in support of HR 243 (Smith) and referred the issue to the City’s Human Rights Commission.

- (2) Federal - There were none.

- (d) Meeting Schedules - There were none.

- (e) The Public Record: Attachment: Memorandum from City Clerk Lee Price, dated May 11, 2007, transmitting items for the Public Record and Administration for the period of May 4-10, 2007.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.

- (g) Rules Committee Reviews, Recommendations and Approvals

- (1) Council Expenditures and Reimbursements. Attachment: Memorandum from City Attorney Richard Doyle and City Clerk Lee Price, dated May 11, 2007, transmitting background for discussion of the Council Expenditure and Reimbursement Policy.

The Committee continued the discussion of “Food and Beverage” to May 23, 2007.

3.3 Report of the Rules and Open Government Committee – May 16, 2007 (Cont'd.) Mayor Reed, Chair

- (h) Review of Council Committee Agendas
 - (3) Transportation and Environment Committee

The Committee approved the amended work plan and Special Meeting.

- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update

There were none.

- (j) Open Forum – There were none.
- (k) Adjournment - The meeting was adjourned at 4:06 p.m.

Action: Upon motion by Council Member Cortese, seconded by Council Member Pyle the Rules and Open Government Committee Report and the actions of May 16, 2007 were accepted. (10-0.)

3.4 Report of the Public Safety, Finance and Strategic Support Committee – May 17, 2007 Council Member Nguyen, Chair

Document Filed: The Public Safety, Finance and Strategic Support Committee Report dated May 17, 2007.

- (a) Consent Calendar. Attachments: Memoranda from Director of Finance Scott Johnson, both dated May 3, 2007, recommending acceptance of the reports.
 - (1) FY 2006-07 Third Quarter Debt Report.
 - (2) FY 2006-07 Third Quarter Investment Report.

The Committee approved the Consent Calendar.

- (b) Review of the Airport Financing Plan for the Phase I Airport Master Plan Projects. Attachment: Memorandum from Director of Finance Scott Johnson, dated May 3, 2007, recommending acceptance of the report.

The Committee accepted the report.

**3.4 Report of the Public Safety, Finance and Strategic Support Committee – May 17, 2007
Council Member Nguyen, Chair (Cont'd.)**

- (c) Review and Discussion from Management Partners on Performance Measures Specified in the Annual Budget. Attachment: Memorandum from Chief Deputy City Manager Kay Winer, dated May 3, 2007, transmitting review of Performance Measures Reporting.

The Committee moved to pass the information on to Committee members absent during the motion and to City Council.

- (d) Review of City Financial Investment Program and Investment Policy.
 - (1) Review of City Financial Investment Program by External Auditor. Attachment: Memorandum from Director of Finance Scott Johnson, dated May 9, 2007, recommending acceptance of the report.

The Committee requested Staff to draft a supplemental report and report out to City Council in two weeks.

- (2) Review and Approval of Proposed Changes to Investment Policy. Attachment: Memorandum from Director of Finance Scott Johnson, dated May 3, 2007, recommending acceptance of the recommendations.

The Committee approved Staff's recommendations with modifications. See Item 3.7 for Council Action Taken.

- (e) Redevelopment Agency Monthly Financial Reports. Attachments: Memoranda from Redevelopment Agency Executive Director Harry S. Mavrogenes, all three dated May 3, 2007, recommending acceptance of the reports.
 - (1) Financial Statements – March 2007
 - (2) Capital Cost Report – March 2007
 - (3) Cash Flow Projections – March 2007

The Committee approved the reports; information from the reports to be provided to Committee members not present during the reports.

- (f) An Audit of the Bridge Repair Program.
- (g) An Audit of the Traffic Calming Program.
- (h) Semi-Annual Recommendation Follow-up Report on all Outstanding Audit Recommendations for the Six Months ended December 31, 2006. Attachments: (1) Audit of Department of Transportation's Efforts to Secure Federal Highway Bridge Replacement and Rehabilitation Funds from the Office of the City Auditor dated May 2007. (2) An Audit of the Traffic Calming Program from the Office of the City Auditor dated May 2007. (3) Semi Annual Recommendation Follow Up Report on all Outstanding Audit Recommendations for the Six Months Ended December 31, 2006.

Items (f)-(h) deferred by Committee.

**3.4 Report of the Public Safety, Finance and Strategic Support Committee – May 17, 2007
Council Member Nguyen, Chair (Cont'd.)**

- (i) Oral Petitions - There were none.
- (j) Adjournment - The meeting was adjourned at 4:22 p.m.

Director of Finance Scott P. Johnson provided clarification to the Committee Review of the Airport Financing Plan for the Phase I Airport Master Plan Projects Update coming to Council to August 7, 2007.

Action: The Public Safety, Finance and Strategic Support Committee Report and the actions of May 17, 2007 were accepted. (10-0.)

- 3.5 (a) Approval of the proposed Fiscal Year 2006/07 - 2011/12 Fiscal Year Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program.**
- (b) Direct staff to work with PG&E and return to Council in September with a revised workplan that provides for expedited delivery of Rule 20A Projects.**
- CEQA: Not a Project. (Public Works)**
- (Deferred from 5/1/07 Item - 3.4 and 5/15/07 - Item 3.3 and 5/22/07 – Item 3.9)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated April 24, 2007, recommending approval of the report and the proposed Fiscal Year 2006/07-2011/12 Workplan and direction to Staff. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated April 27, 2007, amending direction to Staff. (3) Supplemental memorandum from Director Public Works Katy Allen, dated May 18, 2007, requesting a deferral to June 5, 2007.

Director of Public Works Katy Allen and Deputy Director of Public Works Tim Borden presented a summary of the Underground Utility Program Report on the Rule 20A and Rule 20B Underground Utility Program 2006/2007-2011/2012 Work Plan and responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams and carried unanimously, the proposed Fiscal Year 2006/2007 – 2011/2012 Fiscal Year Work Plan for the Rule 20A and Rule 20B Underground Utility Program with Staff directed to work with PG&E and return to Council in September with a revised work plan that provides for expedited delivery of Rule 20A Projects, were approved. (10-0.)

- 3.7 (a) Review and acceptance of the “City of San José Investment Unit Evaluation Report” prepared by Macias Consulting Group as modified by the responses prepared by the Director of Finance and review of the supplemental information requested by the Public Safety Finance & Strategic Support Committee regarding adding resources to the Investment Program as outlined in the Macias Report.**

3.7 (b) Adoption of a resolution approving the City of San José Investment Policy, including certain changes thereto. (Cont'd.)

CEQA: Not a Project. (Finance)

[Public Safety, Finance and Strategic Support Committee referral 5/17/07 - Item 3.4(d)]

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson, dated May 25, 2007, recommending review and acceptance of the report. (2) Memorandum from Director of Finance Scott P. Johnson, dated May 24, 2007, recommending adoption of a resolution.

Director of Finance Scott P. Johnson summarized the Review of the City Financial Investments Program by the External Auditor and provided background regarding the City of San José Investment Policy and a Summary of Macias Consulting Group Recommendations and Findings.

Public Comments: William J. Garbett spoke in opposition to the Staff recommendation. Ross Signorino expressed support for the City's decision to not invest in Fannie Mae, given their financial difficulties.

Mayor Reed questioned the recommendation of \$470,000 in new expenditures and whether they appear in the budget recommended by the City Manager and City Manager White and Director of Finance Scott P. Johnson responded. Mayor Reed requested the item be taken up with the budget in the following week.

Council Member Liccardo expressed concern regarding investment comparisons to other large cities and setting performance benchmarks. Vice Mayor Cortese suggested the independent investment advisor have a voluntary advisory committee as a change to the committee structure.

Council Member Oliverio expressed objections to the "interest-envy", a belief that the dollar amount will continue to grow and further because the Auditor's report has not yet been completed.

Mayor Chuck Reed requested that the City Manger prepare a Manager's Budget Addendum to review cost and revenue for discussion the following week.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Williams and carried, the report was accepted, and [Resolution No. 73798](#), entitled "A Resolution of the Council of the City of San José Approving the City's Investment Policy Including Certain Revisions Thereto", was adopted; Council referred the Investment Program additional resources discussion to June 12, 2007. Staff was also directed to: (1) Provide a Manager's Budget Amendment outlining the costs and revenues. (2) Work to create a voluntary advisory group to support the independent investor. (9-1. Noes: Oliverio.)

3.8 As recommended by the Rules and Open Government Committee:

- (a) **AB 1252 (Caballero) – Housing-Related Parks Program: adoption of a support position, with amendments, for AB 1252 (Caballero).**
[Rules Committee referral 5/23/07 – Item C1(a)]
- (b) **AB 1460 (Saldaña) – Multifamily Housing Program: Project Prioritization: adoption of a support position for AB 1460 (Saldaña).**
[Rules Committee referral 5/23/07 – Item C1(b)]
- (c) **SB 46 (Perata) – Proposition 1C Regional Planning, Housing and Infill Incentive Account: adoption of a support position, with amendments, for SB 46 (Perata).**
[Rules Committee referral 5/23/07 – Item C1(c)]
- (d) **SB 586 (Dutton) – Proposition 1C Innovation Fund: adoption of an oppose position, unless amended, for SB 586 (Dutton).**
[Rules Committee referral 5/23/07 – Item C1(d)]
(Housing)

Documents Filed: (1) Memoranda from City Clerk Lee Price, all three dated May 24, 2007, recommending approval of a support positions for AB 1252, AB 1460 and SB 46. (2) Memorandum from City Clerk Lee Price, dated May 24, 2007, recommending approval of a position to oppose SB 586.

Action: Upon motion by Council Member Constant, seconded by Council Member Chirco and carried unanimously, the adoption of support positions for AB 1252, AB 1460, SB 46 and a position of opposition to SB 586 were approved. (10-0.)

3.9 Approval of an ordinance amending Chapter 3.48 of Title 3 of the San José Municipal Code by adding Section 3.48.140 to permit loans to participants for the City of San José Deferred Compensation Plan. CEQA: Not a Project. (Human Resources)

Documents Filed: Memorandum from Secretary of the Deferred Compensation Advisory Committee Mark Danaj, dated May 14, 2007, recommending approval of an ordinance.

Public Comment: Stephanie Menzies spoke in favor to the proposed ordinance.

Action: Upon motion by Council Member Constant, seconded by Council Member Williams and carried unanimously, [Ordinance No. 28057](#), entitled: “An Ordinance of the City of San José Amending Chapter 3.48 of Title 3 of the San José Municipal Code by Adding Section 3.48.140 to Permit Loans to Participants from the City of San José Deferred Compensation Plan”, passed for publication. (10-0.)

- 3.10**
- (a) **Adoption of a resolution amending the City of San José Pay Plan, setting the salary and approving benefits for City Manager Ms. Debra Figone as outlined in the May 14, 2007 letter from Mayor Reed.**
 - (b) **Authorize the City Clerk to execute an employment agreement between the City of San José and Ms. Debra Figone for services as City Manager.**
(Mayor/City Clerk)
[Rules Committee referral 5/23/07 – Item A2(a)1]

3.10

Documents Filed: Memorandum from Mayor Chuck Reed, dated May 15, 2007, recommending adoption of a resolution and authorizing the City Clerk to execute an employment agreement.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73799](#), entitled: “A Resolution of the Council of the City of San José Setting the Salary and Approving Benefits for City Manager Debra Figone Effective July 23, 2007 and Authorizing the City Clerk to Execute an Employment Agreement Between the City of San José and Debra Figone for Services as City Manager”, was adopted. (10-0.)

- 3.12 (a) **Support Senate Bill 966, Pharmaceutical Drug Disposal;**
(b) **Authorize a letter of support to Senator Simitian and Kuehl; and**
(c) **Authorize Environmental Services staff to participate as technical resources during the development of future legislation on pharmaceutical or drug disposal.**

CEQA: Not a Project. (Environmental Services)

[Rules and Open Government Committee Referral 5/30/07 – Item (c)(1)(a)]

Documents Filed: Memorandum from City Clerk Lee Price, dated May 31, 2007, transmitting the recommendation of the Rules and Open Government Committee of approval of a support position.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the City Council adopted a support position. (10-0.)

- 3.13 **Amend the membership criteria of the Sunshine Reform Task Force to exempt the News Media representative from the residency requirement and appoint Bert Robinson to the Sunshine Reform Task Force. CEQA: Not a Project. (Mayor)**
[Rules and Open Government Committee Referral 5/30/07 – Item (f)(1)]

Documents Filed: Memorandum from City Clerk Lee Price, dated May 31, 2007, recommending approval to amend the membership criteria.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Constant and carried unanimously, the recommendation to amend the membership criteria of the Sunshine Reform Task Force and the appointment of Bert Robinson were approved. (10-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Adoption of a resolution of the City Council:

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Casa Feliz) Series 2007A" in an aggregate principal amount not to exceed \$11,000,000 (the "Bonds");
- (b) Approving a loan of Bond proceeds to Casa Feliz Studios, L.P., a California limited partnership, for financing the construction of the Casa Feliz Studio Apartment Project located at 525 South Ninth Street in San José;
- (c) Approving in substantially final form the Bonds, Indenture, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants and Bond Purchase Agreement; and
- (d) Authorizing the City Manager or other authorized officers to execute and, as appropriate, to negotiate, execute and deliver these bond documents and other related bond documents as necessary.

CEQA: Mitigated Negative Declaration, File No. PDC05-020. Council District 3. SNI: University. (Finance/Housing)

Documents Filed: (1) Memorandum from Deputy Director of Finance Julia H. Cooper and Director of Housing Development Leslye Krutko, dated May 14, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Deputy Director of Finance Julia H. Cooper, dated May 29, 2007, transmitting additional information to Council of adjustments made to the bond term and loan interest rate of bond proceeds and transmittal of documents on file.

Action: Upon motion by Council Member Chirco, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 73800](#), entitled: "A Resolution of the City Council of the City of San José Authorizing the Issuance of Multifamily Housing Revenue Bonds and the Loan of the Proceeds Thereof for the Financing of the Casa Feliz Studio Apartments and Approving Other Related Documents and Actions", was adopted. (10-0.)

4.3 Adoption of a resolution approving amendments to a funding commitment to the Unity Care Group for an affordable housing facility for low-income youth who are aging out of foster care:

- (a) Changing the number of units to be purchased and rehabilitated by the Unity Care Group to seven affordable housing units for low-income youth aging out of foster care and one unit for a resident monitor; and
- (b) Increasing the grant amount from \$1,700,000 to \$2,125,000, including \$1,650,000 for the acquisition of the four-plexes at 115 and 109 Roundtable Drive and \$475,000 for improvements to the properties.

CEQA: Exempt, File No. PP06-199. Council District 2. SNI: Edenvale/Greater Oaks. (Housing)

Documents Filed: Memorandum from Director of Housing Development Leslye Krutko, dated May 9, 2007, recommending the City Council make amendments to Resolution No. 73571.

4.3 (Cont'd.)

Action: Upon motion by Council Member Cortese, seconded by Council Member Williams and carried unanimously, [Resolution No. 73801](#), entitled: “A Resolution of the Council of the City of San José Approving Amendments to a Funding Commitment to the Unity Care Group for an Affordable Housing Facility for Low-Income Youth Who are Aging Out of Foster Care; (A) Changing the Number of Units to be Purchased and Rehabilitated by the Unity Care Group to Seven Affordable Housing Units for Low-Income Youth Aging Out of Foster Care and One Unit for a Resident Monitor; (B) Increasing the Grant Amount from \$1,700,000 to \$2,125,000, including \$1,650,000 for the Acquisition of the Four-Plexes at 115 and 109 Roundtable Drive and \$475,000 for Improvements to the Properties”, was adopted. (10-0.)

NEIGHBORHOOD SERVICES

5.2 **Acceptance of the report on Healthy Neighborhood Grants Contract Management and the HNMF transition to a Results Accountability Model beginning with the FY 08-09 grant cycle. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services) [Neighborhood Services and Education Committee referral 5/10/07 – Item 5.1(d)] (Deferred from 5/22/07 – Item 5.2)**

Documents Filed: (1) Memorandum from Deputy City Manager Mark Linder, dated May 24, 2007, recommending acceptance of the report. (2) Memorandum from Agenda Services Manager Nadine Nader, dated May 14, 2007, transmitting the report from the Neighborhood Services and Education Committee.

Motion: Council Member Chirco moved acceptance of the Staff recommendations. Council Member Campos seconded the motion.

Director of Housing Leslye Krutko responded to Council questions.

Deputy City Manager Mark Linder summarized the Healthy Neighborhood Grants Contract Management Report and responded to Council questions.

Action: On a call for the question, the motion carried unanimously and the Healthy Neighborhood Grants Contract Management Report and the HNMF transition to a Results Accountability Model beginning with the FY 08-09 grant cycle were accepted. (10-0.)

5.4 (a) **Adoption of the following Appropriation Ordinance Amendments in the Subdivision Park Trust Fund:**

- (1) **Establish an appropriation to the Department of Public Works in the amount of \$154,000 for the Tuscany Hills Parks and Neighborhood Trail Turnkey Project;**
- (2) **Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$771,000 for the KB Home Reimbursement for Tuscany Hill Parkland Fees Project;**
- (3) **Decrease the Reserve: Communications Hill by \$925,000.**

5.4 (b) Approval of a Turnkey Park Agreement with KB Home, South Bay, Inc., for Planned Development Permit PD03-022, associated with Tentative Map No. PT00-152. (Cont'd.)

CEQA: Resolution No. 70194. Council District 7. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Budget Director Larry D. Lisenbee and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 14, 2007, recommending adoption of appropriation ordinance amendments and approval of a Turnkey Park Agreement.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Constant and carried unanimously, [Ordinance No. 28058](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Subdivision Park Trust Fund for the KB Home Reimbursement for Tuscany Hill Parkland Fees Project and for the Tuscany Hills Parks and Neighborhood Trail Turnkey Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted, and a Turnkey Park Agreement with KB Home, South Bay, Inc. was approved. (10-0.)

5.5 Approval of the master plan for the new Cahill Park play lot. Council District 6. SNI: Burbank/Del Monte. CEQA: Exempt, File No. PP07-056. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 14, 2007, recommending approval of the master plan.

Action: Upon motion by Council Member Williams, seconded by Council Member Constant and carried unanimously, the master plan for the new Cahill Park play lot was approved. (10-0.)

TRANSPORTATION & AVIATION SERVICES

**6.1 Report of the Transportation and Environment Committee – May 21, 2007
Council Member Williams, Chair**

Document Filed: The Transportation and Environment Committee Report dated May 21, 2007.

(a) Caltrans Director's Report and Freeway Litter Removal Initiatives.

The Committee accepted the report.

6.1 Report of the Transportation and Environment Committee – May 21, 2007 (Cont'd)
Council Member Williams, Chair

- (b) Review of Performance Measure Reporting. Attachment: Memorandum from Chief Deputy City Manager Kay Winer, dated May 9, 2007, transmitting the Review of Performance Measure Reporting to Council Committees.

The Committee took no action on this item.

- (c) Status Report on Environmentally Responsible Fleet Replacement Policy. Attachment: Memorandum from Director of General Services Peter Jensen and Director of Environmental Services John Stufflebean, dated May 10, 2007, recommending acceptance of the report and approval of City membership.

The Committee accepted the report and recommended to Council approval of City membership in the Plug-in Partners National Campaign.

- (d) Environmental Management System Pilot Report and Expansion to Other City Operations.

Deferred to August 2007.

- (e) Water Supply Issues Including San Francisco Public Utilities Commission (SFPUC) Negotiations & Rates. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated May 8, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (f) Sewer Service & Use Charge Fund Financing Alternatives to Address Critical Infrastructure Needs.

Deferred to Fall 2007.

- (g) Union Pacific Railroad Coordination.

The Committee deferred to August 2007.

- (h) Report on Infrastructure Deferred Maintenance Strategy Work Plan. Attachment: Memorandum from Deputy City Manager Ed Shikada, dated May 8, 2007, recommending acceptance of the report.

The Committee accepted the report.

**6.1 Report of the Transportation and Environment Committee – May 21, 2007 (Cont'd)
Council Member Williams, Chair**

- (i) Report on tree Preservation Work Plan. Attachment: Memorandum from Deputy City Manager Ed Shikada, Director of Transportation James Helmer and Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 10, 2007, recommending acceptance of the report and work plan.

The Committee accepted the report and accompanying work plan to allow Staff to continue their efforts to improve tree preservation in San José.

- (j) Support for National Campaign to Manufacture and Use Plug-in Electric Hybrid Vehicles.

The Committee accepted the report. See Item 6.6 for Council Action to be taken

- (k) Greenhouse Gas Reduction Goals Development Process. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated May 11, 2007, recommending acceptance of the report.

The Committee accepted the report and moved forward the recommendation that the City Council adopt the recommended greenhouse gas emission reduction goal for municipal activities.

- (l) Update on Key Recycle Plus Transition.

The Committee accepted the report with only two members present.

- (m) Oral Petitions - There were none.

- (n) Adjournment - The meeting was adjourned at 5:07 p.m.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle the Transportation and Environment Committee Report and the actions of May 21, 2007 were accepted. (10-0.)

6.2 Adoption of a resolution establishing parking rates, charges and fees at the Norman Y. Mineta San José International Airport and repealing Resolution No. 71745. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-047. (Airport)

Documents Filed: Memorandum from Director of Aviation William F. Sherry, A.A.E., dated May 15, 2007, recommending adoption of a resolution.

Motion: Vice Mayor Cortese moved approval of the Staff recommendations. Council Member Chirco seconded the motion.

6.2 (Cont'd.)

Director of Aviation William F. Sherry responded to Council questions.

Action: On a call for the question, the motion carried unanimously and [Resolution No. 73802](#), entitled: “A Resolution of the Council of the City of San José Establishing Parking Rates, Charges and Fees at the Norman Y. Mineta San José International Airport and Repealing Resolution No. 71745”, was adopted. (10-0.)

6.3 Adoption of a resolution authorizing the City Manager to:

- (a) **Negotiate and execute a Concession Agreement with Clear Channel Outdoor, Inc., dba Clear Channel Airports for Option #5, the placement of fixed display in-terminal advertising, outdoor advertising, transit/bus shelter advertising and promotional marketing opportunities at the Norman Y. Mineta San José International Airport, for a seven-year term from the date of execution, with an option in the City’s sole discretion to extend the term for an additional three-year period, and with a minimum annual concession fee guarantee to the City of \$4,075,000.**
- (b) **Negotiate and execute a Concession Agreement with JCDecaux Airport, Inc. for Options #’s 1, 2 and 4, which are the options that JCDecaux submitted a proposal, the placement of fixed display in-terminal advertising, outdoor advertising, and promotional marketing opportunities at the Norman Y. Mineta San José International Airport for a seven-year term from the date of execution, with an option in the City’s sole discretion to extend the term for an additional three-year period, and with a minimum annual concession fee guarantee to the City of \$2,300,000, in the event that the City Manager determines that the City and Clear Channel cannot agree upon the terms of the Concession Agreement for Option #5 by August 1, 2007.**
- (c) **Negotiate and execute a Concession Agreement with Clear Channel Outdoor, Inc., d/b/a Clear Channel Airports for Option #3, the placement of transit/bus shelter advertising, for a seven-year term from the date of execution, with an option in the City’s sole discretion to extend the term for an additional three-year period, and with a minimum annual concession fee guarantee to the City of \$75,000, in the event that the City Manager determines that the City and Clear Channel cannot agree upon the terms of the Concession Agreement for Option #5 by August 1, 2007.**

CEQA: Resolution Nos. 67380 and 71451, File No. PP07-096. (Airport)

Documents Filed: Memorandum from Director of Aviation, William F. Sherry, A.A.E., dated May 14, 2007, recommending adoption of a resolution.

Director of Aviation William F. Sherry provided background related to the airport advertising concession agreement and responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 73803](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and execute Concession Agreements for the Airport Advertising Concession”, was adopted. (10-0.)

- 6.4 (a) Approval of a Master agreement with Airport & Aviation Professionals, Inc. DBA AvAirPros for airline technical and operational consulting services at Norman Y. Mineta San José International Airport, from the date of execution to May 31, 2011, in an amount not to exceed \$1,560,952.**
- (b) Adoption of a resolution authorizing the City Manager to execute up to two, two-year options to extend the term at no increase in total compensation.**
- CEQA: Resolution Nos. 67380 and 71451, File No. PP07-065. (Airport)**

Documents Filed: Memorandum from Director of Aviation, William F. Sherry, A.A.E., dated May 21, 2007, recommending approval of a master services agreement and adoption of a resolution.

Action: Upon motion by Council Member Cortese, seconded by Council Member Pyle and carried unanimously, a master agreement with Airport & Aviation Professionals, Inc. DBA AvAirPros was approved, and [Resolution No. 73804](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute up to Two, Two-Year Options to Extend the Term of the Agreement with Airport & Aviation Professionals, Inc. from June 1, 2011 at No Increase in Total Compensation”, was adopted. (10-0.)

- 6.6 Approval of City membership in the Plug-In Partners National Campaign, which is focused on developing wide support to encourage automakers to consider a wide production of plug-in hybrid vehicles. CEQA: Not a Project. (Environmental Services/General Services)**
- [Transportation and Environment Committee referral 5/21/07 – Item 6.1(j)]**

Documents Filed: Memorandum from Agenda Services Manager Nadine Nader, dated May 23, 2007, transmitting the recommendation of the Transportation and Environment Committee.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, City membership in the Plug-In Partners Nation Campaign to consider a wide production of plug-in hybrid vehicles was approved. (10-0.)

- 6.7 Approval of the recommended Greenhouse Gas Emission Reduction Goal for municipal activities. CEQA: Not a Project. (Environmental Services)**
- [Transportation and Environment Committee referral 5/21/07 – Item 6.1(k)]**

Documents Filed: (1) Memorandum from Vice Mayor Cortese and Council Members Williams, Liccardo and dated June, 4, 2007, recommending approval of the Staff recommendations and additional direction to Staff. (2) Memorandum from Agenda Services Manager Nadine Nader, dated May 23, 2007, transmitting the recommendation of the Transportation and Environment Committee. (3) Letter from the Silicon Valley Leadership Group, dated June 5, 2007, regarding the Greenhouse Gas Emission Reduction Goal. (4) Email from member of the public, dated June 5, 2007, regarding the Greenhouse Gas Emission Reduction Goal.

6.7 (Cont'd.)

Motion: Council Member Williams moved approval of memorandum he cosigned with Vice Mayor Cortese, and Council Members Liccardo and Chirco, dated June 4, 2007, recommending approval of the Staff recommendations with additional direction as described in “Action”. Vice Mayor Cortese seconded the motion.

Environmental Program Manager Mary Tucker summarized the Greenhouse Gas Reduction Goals and responded to Council questions.

Council discussion followed.

Public Comments: Speaking in support of the Staff recommendations were Sally Tomlinson (Sustainable Silicon Valley), Darren Deffner (PG&E), Brandon Heiken (Cool Cities), Marc Boyd, Tessa Woodmansee, Sophia Woodmansee and Marshall Woodmansee.

Action: Upon a call for the question and carried unanimously, the Greenhouse Gas Emission Reduction Goal for municipal activities were approved with the following directions to Staff: (1) Adoption of the following targets for greenhouse gas emission reduction for municipal activities: 2012: GHG emissions 25% below 1990 levels; 2015: GHG emissions 30% below 1990 levels; 2020: GHG emissions 35% below 1990 levels; 2030: GHG emissions 50% below 1990 levels; and 2045: GHG emissions 80% below 1990 levels. (2) Initiate dialogue with relevant stakeholders on determining a “community” greenhouse gas reduction goal. (3) Return to Transportation and Environment Committee in Fall 2007 with a status report on the municipal climate action plan goal. (4) Staff was further directed to work with each Council Office on identifying potential stakeholders to take part in the formation of a regional climate action plan for the purposes of establishing a community wide goal for greenhouse gas emissions reduction. (10-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Redevelopment Agency Board convened at 4:07 p.m. to consider Item 9.1 in a Joint Session.

- 9.1 (a) Direct the Redevelopment Agency Executive Director to solicit community input on City recognition of Story Road between Highway 101 and Senter/Keyes Road as “Vietnamese Business District,” including direct outreach to business owners and residents in the vicinity, including the Tully/Senter and Spartan/Keyes Strong Neighborhood Initiative (SNI) areas.**
- (b) Direct the Redevelopment Agency Executive Director and City Manager to identify costs and approvals needed for the installation and maintenance of banners and median signs, and return to Council with recommendations for implementation based on community input.**

(Mayor/Nguyen)

[Rules Committee referral 5/23/07 – Item A2(a)3]

9.1 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Nguyen, dated May 10, 2007, recommending direction to the Redevelopment Agency Executive Director and the City Manager. (2) Letter from a member of the public dated June 5, 2007, regarding the Vietnamese Business District Designation.

Motion: Council Member Nguyen moved approval of the Staff recommendations. Vice Mayor Cortese seconded the motion.

Public Comments: Speaking in opposition to the Staff recommendations were John Zamora and Clifford H. Milum.

Speaking in support of the Staff recommendations were Loc Vu and Nam Pham (Dan Sinh Television).

Council discussion in favor followed. Council Member Oliverio requested that Staff return with different options for signage.

Action: Upon a call for the question and carried unanimously, the Redevelopment Agency Executive Director was directed to solicit community input on City recognition of Story Road between Highway 101 and Senter/Keyes Road as "Vietnamese Business District," including direct outreach to business owners and residents in the vicinity, including the Tully/Senter and Spartan/Keyes Strong Neighborhood Initiative areas and Redevelopment Agency Executive Director and City Manager were further directed to identify costs and approvals needed for the installation and maintenance of banners and median signs, and return to Council with recommendations for implementation based on community input. (10-0.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9637	NE corner Buena Vista Ave/San Carlos	6	San Carlos Willard Assoc.	34 Lots / 32 Units	SFA	Approve
9837	W/S Delmas Av, 170' N/Dorothy Ave	6	McCarthy Land Co., LLC	11 Lots / 10 Units	SFD	Approve
9851	East side of Almaden Rd, at Malone Rd	6	The Olson Co.	15 Lots / 56 Units	SFD	Approve
9879	W/S Boynton Av, 520' N Akron Way	1	Russell Mahzoon	5 Lots / 4 Units	SFA	Approve
9917	W/S San Felipe Rd, 300' S Yerba Buena	8	Pinn Brothers		30 Lots / 25 Units	SFD
9923	E/S Almaden Rd, 800' N Curtner Av	6	Pacific Diversified		12 Lots / 11 Units	SFD

OPEN FORUM

- (1) Paul Manley made requests for public records relating to an enforcement issue. The matter was referred to the Rules and Open Government Committee.
- (2) An actor impersonating Borat Sagideyev entertained the Council and provided a “teaser” for this year’s “Monday Night Live” to be held on June 25, 2007.
- (3) Mark Trout presented religious viewpoints.
- (4) Robert Apgar voiced personal observations.

STRATEGIC SUPPORT SERVICES

3.11 Interview Elections Commission applicant and consider appointment to fill one unexpired term ending March 1, 2011. (City Clerk) (Rules Committee referral 5/30/07)

Documents Filed: Memorandum from City Clerk Lee Price, dated May 31, 2007, recommending interview of Elections Commission applicant and consideration of an appointment.

Action: Applicant was interviewed by the City Council. Mr. Tony Ventura was unanimously appointed to the Elections Commission to serve an unexpired term ending May 1, 2011.

3.6 Approval of an ordinance amending the San José Municipal Code to change the special eligibility requirement that one member of the Elections Commission be an attorney-at-law licensed to practice in California. (City Clerk) [Rules Committee referral 5/23/07 – Item A2(a)2]

Documents Filed: Memorandum from City Clerk Lee Price, dated May 17, 2007, recommending adoption of an ordinance.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, Item 3.6 was dropped from the Agenda. (10-0.)

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 5:02 p.m.

RECESS/RECONVENE

The City Council recessed at 5:02 p.m. from the afternoon Council Session and reconvened at 7:03 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Council District 4.

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Williams, seconded by Vice Mayor Cortese, and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Mr. Diego Certa, Principal of Overfelt High School, upon his retirement after 36 years of service. (Campos)

Action: Mayor Reed and Council Member Campos recognized and commended Mr. Diego Certa, Principal of Overfelt High School, for his thirty six years of service.

1.3 Presentation of commendations to District 9 Stars. (Chirco)

Action: Mayor Reed and Council Member Chirco recognized and commended Kristen Engineer, Sum Tran, Wally Pownall, Ken Hazen, Rob Davis, Roger Falkonitz, Jamie Mathews, Rafles Warnars, Lyle Pardum, Raul Hernandez, Marcella Morales, Darlene Marquez, Ana Barragav, Victoria Ramirez, Adolfo Praga, Wendy Cruz, Greg Murdock and Robert Hennessey.

NEIGHBORHOOD SERVICES

- 5.3 (a) Reject the proposal submitted by Asian American Recovery Services, Inc. in response to the Request for Proposals to operate the Jacinto “Tony” Siquig Northside Community Center (NCC).**
- (b) Acceptance of the staff recommendation to continue City oversight of the facility as a permanent solution.**
- (c) Refer on-going funding for City operations at NCC to the FY 2008-09 budget process.**

CEQA: Not a Project. Council District 3. SNI: 13th Street. (Parks, Recreation and Neighborhood Services)

(Deferred from 3/13/07 – Item 5.3 and 4/3/07 – Item 5.2)

5.3 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Liccardo, dated June 1, 2007, recommending acceptance of the Staff recommendation, referral of on-going funding to the FY 2008-2009 budget process, and direction to Staff to immediately negotiate with each non-profit identified in the AARS proposal in a manner consistent with Facility Re-Use Option 4 and report back to City Council no later than September 2007. (2) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 15, 2007, recommending rejection of the proposal submitted by Asian American Recovery Services (AARS), continue City oversight if the facility as a permanent solution and referral of on-going funding to the FY 2008-2009 budget process. (3) Petition with signatures from the public, dated May 9, 2007, expressing objection to the proposal of AARS. (4) Three letters from the public supporting City operation of the facility. (5) Two letters from the public opposing the staff recommendation related to the Northside Community Center Request for Proposal. (6) Staff presentation of the Jacinto "Tony" Siquig Northside Community Center Request for Proposals, dated June 5, 2007.

Director of Parks, Recreation and Neighborhood Services Albert Balagso summarized Staff recommendations regarding the Jacinto "Tony" Siquig Northside Community Center Request For Proposal.

Motion: Council Member Liccardo moved approval of his memorandum, dated June 1, 2007, modifying the Staff recommendations. Council Member Campos seconded the motion.

Public Comments: Speaking in support of the Staff recommendations were Clarence Madrilegos, Corazon B. Tomalinas, M.S. Kohli, Pat De Guzman, Bob Carlson, Don Gagliardi, Tina Morrill, Robert Aratecola, Julianne Mireles and Mansueta Casinillo.

Speaking in opposition to the Staff recommendations were Sarah Gonzalez, Vic Nakamoto (CRABS), Marvin Alden Dayo Santos, Benjamin Avila, A. J. Lianes, Maria Mamaril, Elmera Asadipour, Jose Cueves, Voltaire Mamaril, Mark Serrano, An Leslie Vinoya, Lester Anastacco, Abbey Lytle, Kamille Octabiano, Michael Nguyen, June Mazon, Marlo Custodio, Jeff Agustin, Lorilee Opiniano, Alyson Sagala, Christopher Ian Cruda, and Penny Aguila (AARS/FYC).

Deputy Director of Parks, Recreation and Neighborhood Services Angel Rios responded to additional Council questions.

Vice Mayor Cortese objected to the motion on the floor and expressed support for the proposal submitted by Asian American Recovery Services. Council Member Pyle concurred.

5.3 (Cont'd.)

Action: Upon a call for the question, the motion carried, the Staff recommendations were approved, as amended, with the following directions: (1) Refer on-going funding for City operations at the Jacinto “Tony” Siquig Northside Community Center (JTSNCC) to the FY 2008-2009 budget process. (2) Immediately negotiate with every non-profit agency identified in the AARS proposal, and any additional non-profit agencies interested in providing services at JTSNCC; (a) Direct staff to conduct all negotiations involving JTSNCC in a manner consistent with Facility Re-Use Option 4, as described in the City memorandum dated December 8, 2006, and (b) No later than September of 2007, report to Council the status of negotiations with non-profit agencies interested in providing services located in JTSNCC. (8-2. Noes: Cortese, Pyle.)

TRANSPORTATION & AVIATION SERVICES

6.5 **Adoption of a resolution exempting the Vendome Neighborhood Association from Traffic Calming Council Policy 5-6 and from the petition process contained within that policy with regard to traffic calming measures along San Pedro Avenue. CEQA: Exempt, File No.PP06-071. (City Manager’s Office) Heard in the evening.**

Documents Filed: Memorandum from Deputy City Manager Mark Linder, dated May 14, 2007, recommending adoption of a resolution.

Deputy City Manager Mark Linder provided a brief overview. Director of Transportation Jim Helmer responded to Council questions.

Motion: Council Member Liccardo moved approval of the Staff recommendation with the modification that a year from implementation the matter comes back to the Transportation and Environment Committee to review data collected on the effectiveness of the road lumps. Council Member Nguyen seconded the motion.

Public Comments: Speaking in support of the Staff recommendations were Wade Hall, Erik Schoennauer, Nancy DeMattei (Vendome Neighborhood Association), Tina Morrill (Vendome Neighborhood Association), David Pandori, Don Galiardi and Caroline Bressler (Vendome Neighborhood Association).

Action: On a call for the question, the motion carried unanimously, Resolution No. 73808, entitled: “A Resolution of the Council of the City of San José Exempting the Vendome Neighborhood Association from Traffic Calming council Policy 5-6 and from the Petition Process Contained within that Policy with Regard to Traffic Claming Measures Along San Pedro Street”, was adopted. (10-0.)

GENERAL PLAN PUBLIC HEARINGS

Continuation of May 15, 2007 and May 22, 2007 General Plan Hearings

- 10.1 (a) **Council initiation of the US 101-Oakland/Mabury Area Development Policy. CEQA: Not a Project. Council District 3. SNI: Thirteenth Street. (Planning, Building and Code Enforcement) District 3.**
- (b) **Tentative approval of a General Plan text amendment request to change the *San José 2020 General Plan* text to increase the maximum allowable building height from 50 feet to 65 feet at Valley Fair Shopping Mall (Valley Fair Mall, LLC, Applicant/Westfield Corporation, Owner) located on an approximately 53-acre site bounded by Forest Avenue to the north, Stevens Creek Boulevard to the south, Winchester Boulevard and City of Santa Clara to the west, and State Route 17 to the east. Director of Planning, Building and Code Enforcement and the Planning Commission recommend approval (6-0-0). CEQA: Resolution to be adopted. GP06-T-04 - District 6.**
[Continued from 5/22/07 - Item 10.1(b)]

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP06-T-04, dated April 24, 2007, recommending adoption of the proposed text amendment. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 4, 2007, transmitting the Planning Commission recommendation. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 17, 2007, recommending Council initiation of the US 101-Oakland/Mabury Area Development Policy. (4) Proof of Publication of Notice of Public Hearing, executed on April 11, 007, submitted by the City Clerk.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the recommendation of the Planning Commission and the Planning Director and the initiation of the US 101-Oakland/Mabury Development Policy were tentatively approved; [CEQA Resolution No. 73809](#), entitled: "A Resolution of the City Council of the City of San José Making Certain Findings Concerning Significant Effects, Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives, and Adopting a Statement of Overriding Consideration for the Valley Fair Shopping Center Expansion Project, for Which an Environmental Impact Report has been Prepared in Accordance with the California Environmental Quality Act of 1970, as Amended", was tentatively adopted. Council Member Oliverio read A Statement of Overriding Considerations into the record. (7-0-3. Absent: Chirco, Constant, Liccardo.)

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

- 10.2 (a) **Adoption of a resolution overriding a determination by the Airport Land Use Commission that the General Plan text amendment request File No. GP06-T-01 is inconsistent with the maximum allowable height policies of the Land Use Plan for Areas Surrounding Santa Clara County Airports due to inconsistency with the height regulations as stated in the FAA Part 77 elevations.**
- (b) **Tentative approval of a General Plan text amendment request to change the San José 2020 General Plan text to increase the maximum allowable building height from 150 feet to 220 feet above ground level on an approximately 6.08-acre site located at the southeasterly corner of Airport Parkway and Old Bayshore Highway and amend the text of the Rincon South Specific Plan as it relates to the North San José Area Development Policy (Foster Enterprises, Owner/Applicant). Director of Planning, Building and Code Enforcement recommends approval and Planning Commission recommends deferral, which is deemed a negative recommendation of the Planning Commission pursuant to San José Municipal Code Section 18.08.100 (6-0-0). CEQA: Resolution No. 72768 and Addenda hereto.**

GP06-T-01 - District 3

(Continued from 5/22/07 – Item 10.4)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP06-T-01, dated April 26, 2007, recommending continuance to a General Plan hearing subsequent to the Council's consideration of the Airport Obstruction Study. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 9, 2007, transmitting the Planning Commission recommendation of deferral. (3) Supplemental Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 18, 2007, recommending overruling the ALUC determination and approval of the General Plan text amendment. (4) Letter from Mark C. Foster, General Partner, Foster Enterprises, dated May 17, 2007, regarding the General Plan Text Amendment request.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Williams, seconded by Council Member Liccardo and carried, the recommendation of the Planning Director was tentatively approved, and [Resolution No. 73810](#), entitled: "A Resolution of the Council of the City of San José Making Certain Finding Required by California Public Utilities Code Section 21676 that Proposed General Plan Text Amendment Application File No. GP06-T-01 is Consistent with the Purposes set Forth in California Public Utilities Code Section 21670 and Overruling the Airport Land Use Commission's Determination that the Proposed Project is not Consistent with the ALUC Height Policies as Defined by the 'Land Use Plan for Areas Surrounding Santa Clara County Airports'", was tentatively adopted. (9-0-1. Absent: Chirco)

10.3 Adoption of a resolution approving all General Plan amendment actions taken on May 15, May 22 and June 5, 2007 and adoption of all related CEQA resolutions. (Planning, Building and Code Enforcement)

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, [Resolution No. 73811](#), entitled: “A Resolution of the Council of the City of San José Specifying the Council’s determinations on Proposed Amendments to the San José 2020 General Plan Pursuant to Title 18 of the San José Municipal Code”, was adopted. (10-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the north side of Southside Drive approximately 250 feet westerly of Water Street (155 Southside Drive) from Unincorporated to the R-1-8 Single Family Residence Zoning District to allow residential uses on a 1.654 gross acres site (Yoh Frederick Y Et Al, Loh Fu M and Ying T Ms Fu-Mei Loh, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-006 – District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-006, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on May 25, 2007, submitted by the City Clerk.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Director was approved, [Ordinance No. 28059](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the North Side of Southside Drive Approximately 250 Feet Westerly of Water Street (155 Southside Drive) to R-1-8 Single Family Residence Zoning District”, was passed for publication. (10-0.)

- 11.2 (a) Adoption of a resolution rescinding City Council certification of the Final EIR for the Lowe's Home Improvement Warehouse, Cottle Road, South San José Planned Development Rezoning File No. PDC02-086, which certification occurred on December 2, 2003; and**
- (b) Consideration of approval of an ordinance rescinding Ordinance No. 27032 adopted by the City Council on December 16, 2003 rezoning the real property located at the southeasterly corner of Blossom Hill and Cottle Roads (5600 Cottle Road) from IP Industrial Park Zoning District to IP(PD) Planned Development Zoning District to allow approximately 222,673 square feet of commercial uses on an 18.75 gross acre site, the demolition of the existing IBM/Hitachi Research Building 25, and the removal of approximately 136 ordinance size trees from the site (CEQA: Resolution No. 65469); and**

- 11.2 (c) **Adoption of a resolution rescinding City Council Resolution No. 71860 adopted on December 2, 2003 making certain findings in connection with the Final EIR for the Lowe's Home Improvement Warehouse, Cottle Road, South San José Planned Development Rezoning File No. PDC02-086 as required by the California Environmental Quality Act of 1970, as amended, adopting a certain mitigation monitoring and reporting program, and setting for a statement of overriding considerations for identified significant environmental impacts; and**
- (d) **Consideration of approval of an ordinance rezoning the real property located at the northeasterly corner of Cottle and Poughkeepsie Roads from IP(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow the demolition of the existing industrial park buildings (Buildings 025, and 024 and 030) and associated site improvements, the removal of up to 385 trees from the site, and the construction of a new, approximately 204,000 square foot commercial facility (including a retail/commercial use, with a single occupant greater than 100,000 square feet (with a garden center), and other retail/ commercial uses) (IBM, Owner). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends denial. (6-0-1).**

PDC06-003 – District 2

(Continued from 4/17/07 – Item 11.3, 5/1/07 – Item 11.2 and 5/15/07 – Item 11.2)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on File Project No. PDC06-003, dated April 5, 2007, recommending denial of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 12, 2007, transmitting the Planning Commission recommendation to support the Staff recommendations and deny the proposed project. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 11, 2007, responding to Council direction to provide a draft Finding Resolution/Statement of Overriding Considerations. (4) Proof of Publication of Notice of Public Hearing, executed on March 16, 2007, submitted by the City Clerk. (5) Transcript of the meeting of the Planning Commission of April 11, 2007. (6) Letter from the Brandt-Hawley Law Group, dated May 1, 2007, urging denial of the rezoning request. (7) Letter from the Brandt-Hawley Law Group, dated June 1, 2007, detailing the legal obligations of Council in certifying the EIR. (8) Slide presentation entitled “Proposed Rezoning PDC06-003”. (9) Article from the Mercury News, dated April 30, 2007, entitled “IBM Building Up for Vote”. (10) Letter from Linda J. LeZotte, dated May 10, 2007, requesting the inclusion of tree preservation and mitigation and reduction of parking per conditions previously agreed upon in the final approval. (11) Letter from Senior Site Development Manager James Manion of Lowe’s Home Improvement Warehouse, dated May 14, 2007, requesting continuance from May 15, 2007 to the next City Council meeting. (12) Proposed Staff revisions to the Development Standards Home Improvement Center (PDC06-003), dated May 10, 2007. (13) Thirty-four letters from the public, dated April 27-30, 2007, expressing opposition to the demolition of IBM Building 025. (14) Four letters from the public expressing support of PDC06-003.

11.2 (Cont'd.)

Council Member Williams recused himself from participating on Item 11.2 because he is a former IBM employee and receives a pension.

Rick Manning, representing Lowe's, responded to Council questions regarding the proposed changes to the development condition. Arthur Friedman, legal counsel for Lowe's, detailed the modifications proposed, including the elimination of the recommendation for salvaging and moving the entire wing of Building 25, as well as a \$300,000 financial contribution from Lowe's for historic preservation.

Public Comments: Mayor Reed opened the public hearing. Patricia Curia, Preservation Action Council of San José spoke in opposition to the Staff recommendation, reading a letter from the attorney of the Preservation Action Council of San José, Susan Brandt-Hawley asserted that demolition remains illegal and urged the Council to follow the recommendations of the Historic Landmarks Commission. Mayor Reed closed the public hearing.

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to Council questions about Lowe's financial offer.

Motion: Council Member Pyle moved to accept the Staff recommendations and allow Lowe's to proceed on this site. Vice Mayor Cortese seconded the motion.

Vice Mayor Cortese offered the following amendment to accept Lowe's offer of \$300,000 with a potential offset if litigated, and if the full \$300,000 is received that the City match the amount with tax increment and sales tax revenue for a maximum total of \$300,000 from each source for a combined total of \$900,000 and delete the requirement for relocation of a wing of Building 25. The amendment was accepted by Council Member Pyle.

Council Member Chirco disclosed meeting with Lowe's representatives and Pat Dando, San José Silicon Valley Chamber of Commerce. As Liaison to the Historic Landmarks Commission, she expressed disappointment that Preservation Action Council of San José (PacSJ) did not object sooner in the process and added that there is a middle ground in this agreement. Council Member Chirco reasoned that it is worthy to set aside funding towards preservation of the City's historical inventory.

Council Member Oliverio requested that the litigation condition amendment to the motion be removed.

Extensive discussion followed.

11.2 (Cont'd.)

Amended Motion: Council Member Oliverio moved to Accept Lowe's offer of \$300,000 as a one-time financial contribution for historic preservation efforts Citywide to partially offset the permanent loss of a significant historic resource, and to delete the requirement from the proposed Planned Development Rezoning development standards that a wing of Building 025 be relocated and utilized as a retail building. In addition, agree to approve matching funds in the amount of \$300,000 each from the City (sales tax revenues from this project) and from the Redevelopment Agency (tax increments from this project) once those revenues are received by the City and Redevelopment Agency. The amended was accepted by Council Member Pyle.

Council Member Campos reiterated opposition to the rezoning as her previous vote reflects.

Action: On a call for the question, the motion carried, the recommendations of Council Member Pyle, and amendments by Vice Mayor Cortese and Council Member Oliverio were accepted; [Ordinance No. 28060](#), entitled: "An Ordinance of the City of San José Rescinding Ordinance No. 27032, Adopted by the City of San José on December 16, 2003, Rezoning Certain Real Property located at the Southeasterly Corner of Blossom Hill Road and Cottle Road (5600 Cottle road) to IP(PD) Planned Development Zoning District" and [Ordinance No. 28061](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeasterly Corner of Cottle and Poughkeepsie Roads from the IP – Industrial Park Zoning District to the A(PD) Planned Development Zoning District", were passed for publication; [Resolution No. 73812](#), entitled: "A Resolution of the Council of the City of San José Rescinding City Council Certification of that Certain Final Environmental Impact Report Prepared for the Lowes Home Improvement Warehouse Project, Cottle Road, South San José Planned Development Rezoning File No. PDC02-086"; [Resolution No. 73813](#), "A Resolution of the Council of the City of San José Rescinding City Council Resolution No. 71860 Adopted on December 2, 2003 Making Certain Findings in Relation to that Certain Final Environmental Impact Report Prepared for the Lowes Home Improvement Warehouse Project, Cottle Road, South San José Planned Development Rezoning File No. PDC02-086" and [Resolution No. 73814](#), entitled: "A Resolution of the City Council of the City of San José Making Certain Findings Concerning Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives, and Adopting a Statement of Overriding Considerations in Accordance with the California Environmental Quality Act for the San José Lowe's Store Project (File No. PDC06-003) for which an Environmental Impact Report has been Prepared in Accordance with the California Environmental Quality Act", were adopted; The Planned Development standards drafted by Staff, the proposed project and the findings, including the demolition of Building 025 were approved. The Council also accepted Lowe's offer of \$300,000 as a one-time financial contribution for historic preservation efforts Citywide to partially offset the permanent loss of a significant historic resource, and to delete a requirement from the proposed Planned Development Rezoning development standards that a wing of Building 025 be relocated and utilized as a retail building. In addition, the Council agreed to approve matching funds in the amount of \$300,000 each from the City

11.2 (Cont'd.)

(sales tax revenues from this project) and from the Redevelopment Agency (tax increments from this project) once those revenues were received by the City and Redevelopment Agency. A Statement of Overriding Considerations was read into the record. (8-1-1. Noes: Campos. Disqualified: Williams.)

- 11.3 (a) **ADMINISTRATIVE HEARING on and consideration of a resolution denying the appeal and upholding the Director's adoption of a mitigated negative declaration for a Planned Development Rezoning from R-1-1 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow six single-family detached residential units on a 1.07 gross acre site located on the east side of Almaden Expressway, approximately 200 feet north of the terminus of Fleetwood Drive. Director of Planning, Building and Code Enforcement recommends to uphold the Planning Commission's decision to approve the Mitigated Negative Declaration.**
- (b) **Consideration of an ordinance rezoning the real property located on the east side of Almaden Expressway, approximately 200 feet north of Fleetwood Drive (16310 Almaden Road) from R-1-1 Residence Zoning District to A(PD) Planned Development Zoning District to allow six single-family detached residences on a 1.07 gross acre site (Rds Investments Chris Soukoulis, Owner/Developer).**

CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

PDC06-070 - District 10

(Continued from 5/1/07 – Item 11.4 and 5/15/07 – Item 11.4)

Documents Filed: (1) Memorandum from Council Member Pyle, dated June 4, 2007, recommending approval of the Planning Commission's decision, approval of the rezoning, and direction to staff. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on File Project No. PDC06-070, dated March 29, 2007, recommending approval of the subject rezoning. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel on File Project No. PDC06-070, dated April 5, 2007, transmitting the report of the Staff of the Department of Planning, Building and Code Enforcement. (4) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 26, 2007, transmitting the report of the Planning Commission recommending approval of the subject rezoning. (5) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel on File Project No. PDC06-070, dated May 14, 2007, recommending upholding the Planning Commission's decision to approve the Mitigated Negative Declaration for the proposed project. (6) Proofs of Publication of Notice of Public Hearing, executed on March 30, 2007 and April 22, 2007, submitted by the City Clerk. (7) Letters from Ron Woodrum, dated June 2, 2007 and April 18, 2007, expressing concern for the Almaden Expressway ingress and egress. (8) Petition with 68 signatures from the residents of Fleetwood Drive, dated April 2, 2007, opposing the Jayden Lane development until investigation are completed and approved.

11.3 (Cont'd.)

Council Member Pyle disclosed meeting with both sides due to the subject rezoning location in her district.

Motion: Council Member Pyle moved approval of her memorandum, dated June 4, 2007. Council Member Williams seconded the motion.

Public Comments: Mayor Reed opened the public hearing. Ron Woodrum expressed concerns regarding the project's access to Almaden Expressway. Douglas A. Page (Fleetwood Drive Homeowners Association) expressed support for the rezoning. Mayor Reed closed the public hearing.

Action: Upon a call for the question, and carried unanimously, the memorandum from Council Member Pyle, and the recommendation of the Planning Commission and the Planning Director were approved, [Resolution No. 73815](#) entitled: "A Resolution of the City Council of the City of San José Upholding the Planning Commission's Decision to Uphold the Planning Director's Decision to Adopt a Mitigated Negative Declaration for a Planned Development Rezoning from R-1-1 Single-Family Residence Zoning District to A(PD) Planned Development Zoning District to Allow Six Single-Family Detached Residential Units on a 1.07 Gross Acre Site Located on the East Side of Almaden Expressway, Approximately 200 Feet North of the Terminus of Fleetwood Drive, in Compliance with the California Environmental Quality Act of 1970, and Related State and Local Guidelines and Regulations" was adopted; and [Ordinance No. 28062](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Almaden Expressway, Approximately 200 Feet North of the Terminus of Fleetwood Drive (16310 Almaden Road) to A(PD) Planned Development Zoning District", was passed for publication, with direction as follows: (1) At a time that the underutilized properties to the north and south of the subject site are proposed for development, Staff shall explore the feasibility of alternative access to those sites utilizing Almaden Expressway. (2) In recognition that the properties to the north and south are expected to soon request rezonings, Staff should proactively study and analyze access for these sites via Almaden Expressway and meet with the Santa Clara County Roads and Airports Department to discuss guidelines and implementation of an acceleration and deceleration lane. (10-0.)

- 11.4 Consideration of an ordinance rezoning the real property located at the area generally bounded by Kentwood Avenue, Highway 85 and properties fronting S. De Anza Blvd from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow approximately 57 single-family attached residences and one (1) single-family detached residence and approximately 8,000 sq.ft. of commercial uses on a 4.2 gross acre site (Sue Dillon, Braddock & Logan Group, Owner/ Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0).
PDC06-122 – District 1**

11.4 (Cont'd.)

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 17, 2007, transmitting the report of the Planning Commission recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on May 4, 2007, submitted by the City Clerk.

Public Comments: Mayor Reed opened the public hearing. Jim Sullivan, representing the applicant Braddock & Logan, provided a brief background regarding the history and outreach of the subject rezoning. Mayor Reed closed the public hearing.

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to questions from Council Member Constant regarding the orientation of neighborhood serving retail.

Action: Upon motion by Council Member Constant, seconded by Council Member Chirco and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28063](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated Within the Area Generally Bounded by Kentwood Avenue, Highway 85 and South De Anza Boulevard to A(PD) Planned Development Zoning District", was passed for publication. (10-0.)

- 11.5 Consideration of a conservation area designation request to designate as a Conservation Area the area generally bounded on the north by Interstate 280, on the east by the property lines of the abandoned Southern Pacific Railroad alignments (approximately a continuation of South Fourth Street), on the west by the alley between South First and Second Streets, and on the south by Martha Street (Various Owners/City of San José, Applicant). SNI: Spartan Keyes. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0).
CA07-001 – District 3**

Action: Continued to August 14, 2007 per Rules Committee.

- 11.6 Consideration of an ordinance rezoning the real property located on the southeast corner of Zanker Road and River Oaks Drive (3300 Zanker Road) from (IP) Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 1,900 single-family attached residences and 31,360 square feet for retail commercial, leasing office, and clubhouse uses on a 38.25 gross acre site (Irvine Apartment Communities, property owner and developer). CEQA: Addendum to the Final Environmental Impact Report for North San José Area Development Policies Update, Resolution No. 72768.
PDC06-038 – District 4**

Action: Continued to June 19, 2007 per Mayor Reed. The City Clerk was directed to forward to the Planning Commission the Mayor's request to hold a special hearing on or before June 18, 2007. The second reading of the ordinance will be held on June 26, 2007.

- 11.7 Consideration of an ordinance zoning the real property located on the north side of Alum Rock Avenue, approximately 200 feet southerly of 34th Street (1629 Alum Rock Ave), to amend the required driveway width of a previously approved zoning on the site (File No. PDC03-090) from 20 to 18 feet to allow a radio station on a 0.33 gross acre site (Vieira Batista S and Dolores M Trustee, Owner). SNI: Five Wounds/Brookwood Terrace. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

PDC07-019 – District 5

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on File Project No. PDC07-019, dated May 10, 2007, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on May 25, 2007, submitted by the City Clerk. (3) Letter from the Law Offices of Peter N. Brewer, dated May 30, 2007, expressing opposition to the new zoning.

Public Comments: Mayor Reed opened the public hearing. Joseph B. Vieira, the property owner, provided a brief background on the property and the services it provides. Mark S. Carlquist expressed support for the subject zoning. Charles Bronitsky expressed opposition to the subject zoning, raised fire variance issues, and offered execution of an easement, thus no rezoning would be necessary. Mayor Reed closed the public hearing.

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to Council questions regarding fire variance issues.

Action: Upon motion by Council Member Campos, seconded by Council Member Constant and carried unanimously, the recommendation of the Planning Director was approved, and [Ordinance No. 28064](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the North Side of Alum Rock Avenue, Approximately 200 Feet Southerly of 34th Street (1629 Alum Rock Avenue) to A(PD) Planned Development Zoning District”, passed for publication. (10-0.)

- 11.8 Consideration of an ordinance rezoning the real property located on the west side of Dent Avenue approximately 500 feet north of Kooser Road (5331 Dent Avenue) from the R-1-8 Residential Zoning District to the A(PD) Planned Development Zoning District to allow 12 single-family detached residences (RWL Group LLC, Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0).**

PDC07-001 – District 9

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on File Project No. PDC07-001, dated May 7, 2007, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 17, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on May 4, 2007, submitted by the City Clerk.

11.8 (Cont'd.)

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28065](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the on the West Side of Dent Avenue, Approximately 500 Feet North of Kooser Road (5331 Dent Avenue), to A(PD) Planned Development Zoning District", was passed for publication. (10-0.)

OPEN FORUM

The following individuals spoke in support of rebuilding and/or renovating Fire Station No. 2: Edie Pricolo, John S. Leyba, Drew Allen (Story Ridge Neighborhood Association), Judy Soito, Jim Boales (Arbuckle Neighborhood), Len Ramirez (Alum Rock Neighborhood), David Sanchez (Alum Rock Neighborhood Coalition), Elsie Aranda, Alofa Talivaa, and Elizabeth Driedger. Erik Kaeding and Jean Marlowe spoke in opposition to Council action taken regarding Item 11.2.

ADJOURNMENT

The Council of the City of San José was adjourned at 10:30 p.m. in honor of Jerrold Hiura and his wife Lucia Cha Hiura, longtime community leaders in Japantown.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

slg/6-5-07MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/clerk/agenda.asp> or <http://www.sanjoseca.gov/clerk/MeetingArchive.asp>

JOINT REDEVELOPMENT AGENCY/COUNCIL ITEM

The Joint Redevelopment Agency Board convened at 4:07 p.m. to consider Items 8.1, 8.2, 8.3, 8.4 and 8.5 in a Joint Session.

8.1 Approval of an agreement with LMN Architects, in the amount of \$400,000, for architectural and design master planning services for the San Jose McEnery Convention Center Expansion. CEQA: Exempt. File No. PP07-083. [GUADALUPE-AUZERAIS]

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated May 24, 2007, recommending approval of the agreement.

Public Comments: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, the agreement with LMN Architects, in the amount of \$400,000, for architectural and design master planning services for the San Jose McEnery Convention Center Expansion was approved. (10-0.)

8.2 (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Agency funding of the architectural services for the Children's Discovery Museum Expansion Project Master Plan and Phase One of the Project: Mechanical System Upgrades.
(b) Approval of the first amendment to an agreement with Leddy Maytum Stacy Architects, in the amount of \$155,000 for a total contract amount not to exceed \$230,000, for architectural services for the master plan of the Children's Discovery Museum Expansion Project and Phase One of the Project, Mechanical System Upgrades.
CEQA: Not a project. [GUADALUPE-AUZERAIS]

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated May 24, 2007, recommending adoption of a resolution and approval of the first amendment to the agreement.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 73805](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Required by State Law for the Expenditure of Redevelopment Agency Funds on Certain Public Improvements to the Children's Discovery Museum Expansion", was adopted, and the first amendment to the agreement with Leddy Maytum Stacy Architects, in the amount of \$155,000 for a total contract amount not to exceed \$230,000, for architectural services for the master plan of the Children's Discovery Museum Expansion Project and Phase One of the Project, Mechanical System Upgrades was approved. (10-0.)

- 8.3 Adoption of resolutions by the Redevelopment Agency Board and the City Council:**
- (a) Approving a Cooperation Agreement between the City and the Agency, providing for the transfer of the Bellevue Avenue Park property from the Agency to the City; and,**
 - (b) Authorizing the City Manager and Executive Director to execute all documents necessary to affect the transfer of ownership of the land to the City of San Jose.**

CEQA: Mitigated Negative Declaration, File No. PP03-289. [MONTEREY CORRIDOR]

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes and City Manager Les White, dated May 24, 2007, recommending adoption of resolutions.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Williams and carried unanimously, [Resolution No. 73806](#), entitled: “A Resolution of the Council of the City of San José Approving a Cooperation Agreement Between the City and Agency, Providing for the Transfer of the Bellevue Avenue Park Property from the Agency to the City; and Authorizing the City Manager to Execute all Documents Necessary to Affect the Transfer of Ownership of the Land to the City”, and Redevelopment Agency Resolution No. 5750, were adopted. (11-0.)

- 8.4**
- (a) Adoption of a resolution by the City Council approving the sale of the project site located at 1696 Story Road and 1101 South King Road to Imwalle Properties, accepting the 33433 Summary Report and Re-Use Valuation, and finding that the sale of the property will assist in the elimination of blight, is consistent with the Implementation Plan for the Story Road Redevelopment Project Area, and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement (DDA).**
 - (b) Adoption of a resolution by the Redevelopment Agency Board approving a DDA with Imwalle Properties and authorizing the Executive Director to execute the DDA and ancillary documents contemplated by the DDA, to close escrow subject to compliance with the terms of the DDA, and to negotiate and execute amendments to the DDA substantially in conformance with the intent of the DDA and as reasonably necessary to conform to lender requirements.**
 - (c) Adoption of a resolution by the Redevelopment Agency Board amending the FY 2006-2007 Revenue Resolution to decrease Other/Miscellaneous Revenue by \$2,150,000 to reflect the adjusted price and the deferred sale of the subject property to FY 2007-08 at the adjusted price of \$1,600,000, a net decrease of \$550,000 to the Agency’s Capital Reserve; and amending the FY 2006-2007 Agency appropriations resolution.**

CEQA: Mitigated Negative Declaration. File No. CP03-030. [STORY ROAD]

8.4 (Cont'd.)

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated May 22, 2007, recommending adoption of resolutions.

Council Member Liccardo disclosed a relationship by marriage with the owners of Imwalle Properties.

Motion: Council Member Nguyen moved approval of the Staff recommendations. Council Member Constant seconded the motion.

Public Comments: Helen Johnson and Gloria Rivera expressed support for the staff recommendation. Dennis Fong, owner of the adjacent property, made a presentation and expressed concerns regarding the alley formed by construction at this site. Jenny Koske and Jani Koske continued the presentation by Dennis Fong. Alofa Taliva, chair for the East Valley-680 SNI NAC, spoke in support of the Staff recommendation.

Extensive Council discussion followed. Redevelopment Agency Deputy Executive Director John Weis responded to Council questions.

Action: Upon a call for the question the motion carried unanimously, [Resolution No. 73807](#), entitled: "A Resolution of the Council of the City of San José Approving the Sale of the Project Site located at 1696 Story Road and 1101 South King Road to Imwalle Properties, Accepting the 33433 Summary Report and Re-Use Valuation, and Finding that the Sale of the Property will Assist in the Elimination of Blight, is Consistent with the Implementation Plan for the Story Road Redevelopment Project Area, and that the Consideration for the Property is not Less than the Fair Reuse Value for the Proposed Use, with the Covenants and Conditions and Development Costs Authorized by the Disposition and Development Agreement", was adopted, and Redevelopment Agency Resolution Nos. 5751 and 5752 were adopted. (10-0.)

- 8.5**
- (a) Redevelopment Agency Board and City Council approval of an agreement with West Hotel Partners, L.P., settling pending litigation on Convention Center parking and providing for the upgrade of the hotel located at 300 Almaden Boulevard, at a maximum cost to the Agency of \$3,829,944.**
 - (b) Redevelopment Agency Board approval of the First Amendment to the Amended and Restated Ground Lease with West Hotel Partners, L.P., modifying the terms of the Hilton Hotel parking rates at the Convention Center pursuant to the Settlement Agreement.**
 - (c) Adoption of a resolution by the Redevelopment Agency Board approving the addition to the FY 2006-07 Adopted Capital Budget of \$3,830,000 to the Hilton Hotel new project line in the Guadalupe-Auzerais Redevelopment Area, and amending the FY 2006-2007 Agency appropriations resolution.**
- CEQA: Exempt. File No. PP07-114. [GUADALUPE-AUZERAIS]**

8.5 (Cont'd.)

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes and City Manager Les White, dated May 22, 2007, recommending approval of the agreement, the first amendment to the lease and adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Chirco and carried unanimously, the agreement with West Hotel Partners, L.P., settling pending litigation on Convention Center parking and providing for the upgrade of the hotel located at 300 Almaden Boulevard, at a maximum cost to the Agency of \$3,829,944 and the First Amendment to the Amended and Restated Ground Lease with West Hotel Partners, L.P., modifying the terms of the Hilton Hotel parking rates at the Convention Center pursuant to the Settlement Agreement were approved; and Redevelopment Agency Resolution No. 5753 was adopted. (10-0.)

The Council of the City of San José, and Redevelopment Agency Board adjourned at 4:46 p.m.